



Illinois Office of Health Information Technology



Substance Abuse Legal Work Group Update

Illinois Health Information
Exchange Authority
Data Security and Privacy Committee

July 27, 2012

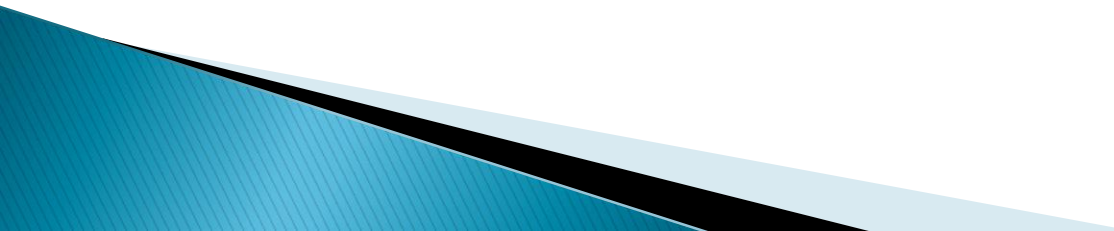
Agenda

- ▶ 1. SALWG's 15 Points
 - Recommendations submitted on March 14, 2012
- ▶ 2. Statutory Changes Preview
 - IMHDDCA = Illinois Mental Health and Developmental Disabilities Confidentiality Act
 - AODADA = Alcoholism and Other Drug Dependency Act
- ▶ 3. Work Product Timeline

SALWG's 15 Points

- ▶ Purpose: Remove barriers to the exchange of sensitive information between Illinois substance abuse providers and physical health providers through the ILHIE.
- ▶ 1. Promote change at the federal level = Congress
 - Revise IL law to be consistent with HIPAA and be 42CFR Part 2 compliant = IL General Assembly
- ▶ 2. Institute Safeguards and Penalties – AODADA
 - Add patient protections addressing penalties for discrimination based on information in substance abuse program records
 - Increase civil/criminal penalties for improper use/disclosure of information
 - Limit the use of these records in civil/criminal investigations
 - Private right of civil action to recover damages and attorney fees

SALWG's 15 Points

- ▶ 3. Broadly construe medical emergency exception in HIE legislation
 - ▶ 4. Create an alert system
 - ▶ 5. Develop a standard consent form
 - ▶ 6. Rewrite the IMHDDCA
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SALWG's 15 Points

- ▶ 7. Use “Upon My Death” as Expiration Event or Condition – IMHDDCA
- ▶ 8. Inclusion of comprehensive list of disclosure purposes – IMHDDCA
- ▶ 9. Preserve stringent court orders
- ▶ 10. Limit Use of Information in Criminal and Civil Investigations

SALWG's 15 Points

- ▶ 11–13. Meaningful use incentive payment changes
- ▶ 14. Expand HIT incentives to Behavioral Health
- ▶ 15. Institute administrative and technical safeguards

Statutory Changes Preview

- ▶ **AODADA: Recommendation 2**
 - Increased safeguards against discrimination, criminal/civil penalties, civil right of action and limited use of records in civil/criminal proceedings

- ▶ **IMHDDCA:**
 - **Elimination of: (Recommendation 6)**
 - (a) requirements of patients to specify a calendar date as the expiration date of their consent, as opposed to an event such as “upon my death” as recommended by SAMHSA;
 - (b) requirement that, in addition to the patient, a witness must also sign the consent;
 - (c) requirement that, in addition to the patient, a witness must also sign a revocation, and that any revocation must be in writing;
 - (d) ambiguity with respect to blanket consents in that the meaning of “unspecified information” is unclear; and
 - (e) contains strict provisions with respect to advance directives.

Work Product Timeline

- ▶ Update Presentation – July 27, 2012
- ▶ Compile work product for SALWG – early August;
- ▶ SALWG drafts changes to AODADA and IMHDDCA – 1–2 weeks;
- ▶ Substance Abuse Provider Meetings to discuss draft legislation – late August;
- ▶ Final SALWG recommendations circulated to Committee at least 1 week before September Board Meeting